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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,085	09/22/2003	Gary L. Bowlin	49122-0162	1270

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

EXAMINER

KOSSON, ROSANNE

ART UNIT PAPER NUMBER

1653

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,085

Applicant(s)

BOWLIN ET AL.

Examiner

Rosanne Kosson

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 6, 9 and 24-35 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1, 6, 9 and 24-35 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

The amendment filed on January 26, 2006 has been received and entered. Claims 1, 6, 9 and 24-35 have been presented for examination, claims 24-35 being newly added. Claims 2-4, 7, 8 and 10-23 have been canceled. Following the last Office action, claim 5 was withdrawn from prosecution as being drawn to a non-elected invention. The newly amended claims present a very large number of species in each claim, as well as in multiple parts of certain claims, e.g., claims 1, 25 and 33. Consequently, elections of species are required so that a composition may be elected for search and examination.

This application contains claims directed to the following patentably distinct species of the claimed invention.

a) In claim 1, Applicants must elect one type of electroprocessed material: i) one or more natural materials, or ii) one of more synthetic materials, or iii) a combination of one or more natural materials and one or more synthetic materials.

b) In claim 1, if category i) or iii) is elected, Applicants must elect one of the natural materials listed or the combination of one or more natural materials listed. If the combination is elected, Applicants must indicate the number of natural materials elected and the identity of all of the natural materials from this list that are present in the elected combination. These elections will be applied to claim 25.

Applicants should note that only if category iii is elected in a) above will claim 25 and its dependent claims be examined. If category iii is not elected, these claims will not be examined as being drawn to a non-elected species.

Applicants should note that only if category iii is elected in a) above will claim 33 and its dependent claims be examined. If category iii is not elected, these claims will not be examined as being drawn to a non-elected species.

c) In claim 1, if category ii) or iii) is elected, Applicants must elect whether the substance comprises one synthetic material or more than one synthetic material.

d) In claim 1, Applicants must elect whether the substance is i) a therapeutic substance, ii) a cosmetic substance or iii) a combination of a therapeutic substance and a cosmetic substance. This election will be applied to claims 31 and 33.

e) In claim 6, Applicants must elect one therapeutic substance. This election will be applied to claim 32 and claim 34.

f) In claim 24, firstly, Applicants must elect whether the composition comprises one polymer or more than one polymer in accordance with the election in claim 1 (see c), above). If the composition comprises more than one polymer, Applicants must indicate how many polymers that composition comprises. Secondly, if the composition comprises one polymer, Applicants must elect one polymer from the list presented. If the composition comprises two polymers, Applicants must elect two polymers from the list presented. If the composition comprises three polymers, Applicants must elect three polymers from the list presented, and so on. The number of polymers in the composition must equal the number of polymers elected. The election in claim 24 will be applied to claim 26.

g) In claim 27, Applicants must elect one of the proteins listed.

h) In claim 30, Applicants must elect whether the composition comprises i) one or more molecules, or ii) one or more cells, or iii) one or more objects, or iv) a combination thereof. If the combination is elected, Applicants must indicate exactly what is present in

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the combination, i.e., whether or not one or more molecules are present, whether or not one or more cells are present, and whether or not one or more objects are present.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species in each of categories a) – h) above for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 25, 27, 31 and 33 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that are elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosanne Kosson whose telephone number is 571-272-2923. The examiner can normally be reached on Monday-Friday, 8:30-6:00, with alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber, can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

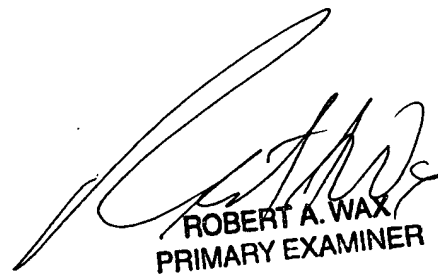
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Rosanne Kosson
Examiner, Art Unit 1653

rk/2006-02-09



ROBERT A. WAX
PRIMARY EXAMINER